



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/608,013	06/30/00	LASHER	103864-1200R

024395 QM32/1105  
HALE & DORR LLP  
THE WILLARD OFFICE BUILDING  
1455 PENNSYLVANIA AVE, NW  
WASHINGTON DC 20004

EXAMINER

KIM, E

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 11/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.

09/608,013

Applicant(s)

LASHER ET AL.

Examiner

Eugene Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-16, 30, 31, 36-44, 49-59, 65-76, 81-115 and 121-134 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) 5, 17-29, 32-35, 45-48, 60-64, 77-80, 116-120 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

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### DETAILED ACTION

1. Claims 1-4, 6-16, 30-31, 36-44, 49-59, 65-76, 81-115, 121-134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg (#4,672,553) in view of East(#5,963,453). Goldberg teaches the apparatus and method of having an order assembling apparatus to fill an order wherein a label is machine readable with a sorting conveyor to order assembly locations to the order codes. Goldberg teaches that any package may be delivered to any order assembly location. The location depends on recognition of what that item is as represented by its characterization. This apparatus has the capability of production shipping invoices . This whole system can accommodate a wide range of package shapes, proportions and weights (col 8 lines 63+). Goldberg teaches the concept of order registering the items and has order selecting means for selecting respective orders to compare each registered item with a stored item characterization to allocate items to selected orders. This is controlling plural selective delivery means (claim 1). Goldberg discloses that a package has the same characterization as the item or items (col 1 lines 65+) inferring that the package may have a plurality of items. Goldberg does not specifically disclose the items and transport means as claimed. East teaches the concept of counting pills 52 that are going to be filled in prescription bottles/discs. East also teaches the concept of using a control computer 21 which controls the dispensing of system and that controls a plurality of carriers. The pill bottles/discs are placed on mechanical equivalent conveyors to transport the bottles and loading station reads a bar code on each prescription . It is well known in the art to use carriers to transport bottles. Regarding radio tags, radio

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tags are well known in the art as they are marketed by Texas Instruments, Inc. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Goldberg with transporting and counting means as taught by East to provide for a more synchronized and expedient operation. Regarding the placement of literature, Goldberg discloses that items may be packaged and the actual item to be packaged is a matter of design choice tailored to the user's preference. Regarding the two different sized bottles, as discussed supra, Goldberg discloses that the system accommodates different sized packages, etc..

2. Claims 5, 17-29, 32-35, 45-48, 60-64, 77-80, 116-120 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Kim whose telephone number is (703)308-1886. The examiner can normally be reached on Tuesday-Friday 7:30 a.m - 6:00 p.m.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.



Eugene Kim  
October 31, 2001